



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

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A Clear and Avoidable Danger

Daschle Amend. Could Lead to Firefighter, Police Strikes During a Terrorist Attack

The prospect of being without police, firefighters, or emergency medical personnel during a terrorist attack is almost too frightening to contemplate. Yet Majority Leader Daschle has introduced legislation that would make this scenario more likely. Senator Daschle has introduced an amendment to the Labor-HHS-Education appropriation bill (H.R. 3061) based on [S. 952](#) (Calendar No. 162), a bill reported by the HELP Committee. The Daschle amendment ([No. 2044](#)) would enable police, firefighters, and paramedics to organize and strike during a national crisis.

In brief, the Daschle amendment would force all states and localities to allow public safety employees (including police, firefighters, emergency medical technicians, and paramedics) to unionize, violating the right of every state to choose for itself whether to allow public sector unionism. The amendment would pre-empt laws in 27 states, impose upon them an unfunded federal mandate of unknown cost, and could eliminate volunteer firefighters in many municipalities.

Legal or Illegal, Public Safety Strikes Will Happen

All government employees should recognize that collective bargaining, as usually understood, cannot be transplanted into public service. . . . [A]ctions looking toward the paralysis of government by those who have sworn to support it are unthinkable and intolerable.

– Franklin Delano Roosevelt

I don't care how you legislate against strikes [while authorizing public-sector monopoly bargaining]. Most states now have legislation prohibiting strikes, but, in reality, they have not stopped strikes.

– U.S. Rep. Bill Clay (D-MO)

When a private sector union strikes a company, consumers need not suffer because they can turn to one of that company's competitors. However, when a strike shuts down the police or fire department, the public has nowhere to turn.

The Daschle amendment will lead to strikes by public safety employees. That it prohibits such strikes matters little. Public sector strikes happen whether legal or not. In fact, prohibitions on public sector strikes arguably *encourage* unions to strike. The illegality makes the strike more newsworthy, providing unions with a greater platform for their demands, which typically include protection from prosecution for violating the no-strike law. According to former American Federation of Teachers President Albert Shanker:

One of the greatest reasons for the effectiveness of the public employees' strike is the fact that it is illegal.

The Daschle amendment's so-called "prohibition" on strikes should be understood in this light.

But would police or firefighters strike? It's a frightening prospect, but not without precedent. The following are examples of strikes by public safety employees.

Louisville – 1978

"Members of the striking Louisville Professional Fire Fighters Union Local 345 met during the afternoon . . . But the union gave no indication of a return to work and picketing continued. **The firefighters have said they know the walkout violates a state law that bars strikes by public employees in vital jobs.**" [AP, 7/14/78]

Memphis – 1978

"A rash of fires broke out in Memphis, Tenn. during a strike July 1-4 by 1,400 members of the AFL-CIO International Association of Fire Fighters, Local 1784. . . **At least 350 fires were reported during the strike.** The city police director charged that the strikers set almost all of the fires, which broke out mostly in abandoned buildings. Union officials denied the charge." [World News Digest, 7/7/78]

"Fire Union Faces Suits For Damages In Strike . . . The Tennessee Court of Appeals opened the door Monday for Memphis property owners to seek damages from the city's firefighters' union, **whose striking members stood by in 1978 as several Cooper street businesses burned to the ground.**" [The Commercial Appeal, 6/3/80]

Public sector strikes are illegal in Tennessee [Acts 1971, ch. 160, § 2; T.C.A., § 6-3809].

Sylacauga, Alabama – 1978

“Vandalism Follows Sylacauga Strike . . . Mayor W.R. Payton Tuesday said **Sylacauga has been plagued by vandalism since policemen, firemen and street and sanitation workers walked off the jobs** [sic] in a dispute over union recognition. . . Only the fire chief remained at the fire department.” [*Birmingham Post-Herald/UPI*, 11/1/78]

This strike was illegal under Alabama Code Title 37, Sec 450 (3) (1967).

Huntsville – 1978

“Fire, Police Unions Defy Firing Threat in Alabama . . . Union Leaders for striking fire fighters and police officers vowed to keep their members off the job unless city officials offer better pay and more benefits.” [*The Detroit News/AP*, 11/20/78]

“During the night, fire officials reported three empty houses and buildings were set on fire. All three fires definitely were arson, said H.A. Luna, chief of fire prevention investigation for the Huntsville fire department. . . There were scattered acts of destruction and violence throughout the city Monday. . . Police cars, fire equipment, utility equipment, and buildings have been damaged. **Several homes have burned to the ground since the strike began at midnight Saturday.**” [*Birmingham News*, 11/21/78]

This strike was illegal under Alabama Code Title 37, Sec 450 (3) (1967).

Birmingham – 1979

“Police and sanitation workers say they will continue to strike until they get the health insurance program they want. A firemen’s union official predicted the city’s 650 firefighters would join the 1,700 city employees on strike. State troopers were called in yesterday to serve alongside police supervisors. Garbage is piling up on street corners.” [*The Washington Star*, 5/3/79]

This strike was illegal under Alabama Code Title 37, Sec 450 (3) (1967).

Nashville – 1980

“Striking Firefighters Defiant . . . Hundreds of striking firefighters ignored threats that they would be fired and stayed off the job while **National Guardsmen were busy dousing blazes, some believed deliberately started.** The city’s 1,000 firefighters, paramedics, and other Fire Department Personnel defied a back-to-work order and walked picket lines while 500 guards-men manned 11 of the city’s 34 fire halls.” [*The Washington Post*, 5/10/80]

“Strikes by public employees are illegal in Tennessee.” [*St. Louis Globe-Democrat/AP*, 5/10/80; Acts 1971, ch. 160, § 2; T.C.A., § 6-3809]

“Arson was suspected in one of the blazes. Fire union officials, pushing for wage hikes of 28 percent, **said strikers must be guaranteed amnesty before any contract talks resume.**” [*Detroit Free Press/AP/UPI*, 5/9/00]

Yonkers – 1981

“Yonkers Burns as Striking Firemen Stand and Watch; Mayor, Homeowners Man Hoses In Vain . . . **Several of the ousted homeowners shouted obscenities at the striking firemen for keeping volunteers from fighting the fires** . . . Volunteer firefighters from two neighboring towns arrived to fight the two fires, but left after several striking firefighters attacked them with their picket signs . . .” [*New York Post*, 4/16/81]

This strike was illegal under New York State’s Taylor Law.

This list is hardly exhaustive. Such a list would have to include strikes by firefighters in Kansas City where fires were set, and by prison guards in Prince George’s County, Maryland, that led to a prisoners riot.

Had there been a firefighters strike in New York City on September 11, many more lives would have been lost. The people of Virginia, where on that day a plane drove into the Pentagon, have chosen to protect themselves from this danger by prohibiting public safety unions. The Daschle amendment would strip them of that protection, at the worst possible time.

Pre-Empting the Laws of 27 States

While the Daschle amendment would violate the right of every state to choose for itself whether to allow public sector unionism, it would pre-empt laws governing public safety unions in the following 27 states:

Alabama	Kansas	North Carolina	Tennessee
Arizona	Louisiana	North Dakota	Texas
Arkansas	Mississippi	Oklahoma	Utah
Colorado	Missouri	South Carolina	Virginia
Delaware	New Mexico	South Dakota	West Virginia
Indiana			

Many of these states’ laws are silent on granting unions monopoly bargaining rights for public safety employees. Others allow limited unionism. Two states – North Carolina and Virginia – have passed

laws explicitly prohibiting public safety unions. All would have their laws pre-empted by the Daschle amendment.

An Unfunded Mandate of Unknown Cost

The Congressional Budget Office (CBO) [estimates](#) the bill on which the Daschle amendment is based (S. 952) would cost the federal government \$44 billion to implement over the 2002-2006 period and would impose costs on the private sector well below the Unfunded Mandates Reform Act (UMRA) threshold of \$113 million (for 2001). However, the CBO said it could not estimate whether the bill would exceed the \$51 million (for 2001) UMRA threshold for intergovernmental mandates due to uncertainties about how state and local governments would be affected. Under UMRA, a point of order [may lie](#) against the Daschle amendment on the Senate floor.

A Threat to Volunteer Firefighters

The Daschle amendment could prove very costly for many municipalities by eliminating a crucial fire control resource: volunteer fire fighters. Just as unions strive to prevent their non-union competition from out-bidding them through minimum wage laws and Davis-Bacon “prevailing wage” laws, firefighters unions will have every incentive to force municipalities not to use volunteer labor to fight fires. As the National Volunteer Fire Council said of an antecedent of the Daschle amendment (S. 1016, introduced in the 106th Congress):

Currently, the International Association of Fire Fighters (IAFF) Constitution includes a provision prohibiting its members from becoming volunteer firefighters or advocating that other members become volunteer firefighters. We have found that in some collective bargaining negotiations in the past, local unions have incorporated similar provisions in their agreements with their local governments. As such, a union may prevent its firefighters from serving as volunteers and a union may negotiate for a provision in a collective bargaining agreement preventing all firefighters working for the employer from serving as volunteer firefighters. [Letter to Senator Jeffords, 12/14/99, emphasis added.]

The Council estimates that 75 percent of all firefighters in the U.S. are volunteer and saved taxpayers some \$37 billion in 1999 alone. The threat to volunteerism and the potential cost of the Daschle amendment are reason enough to put it to rest.

A Bad Idea, At the Worst Possible Time

To give public safety unions the power to hold the public captive is dangerous in times of peace. To do so while America is under attack – over the will of the people, with no idea of the cost, and to the detriment of volunteerism – could prove deadly. Today, America relies on its public safety employees more than ever. The Daschle amendment could not have come at a worse time.

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